

Appendix 5

Summary of federal sanctions and current state sanctions for
Medicaid and FoodShare Programs

State Sanctions for Fraud - Medicaid and FoodShare Programs

Medicaid

Current Medicaid federal regulations do not permit a sanction for intentional program violations.

FoodShare (from the FoodShare Wisconsin Handbook)

A person commits an Intentional Program Violation (IPV) when s/he intentionally:

1. makes a false or misleading statement, or misrepresents, conceals or withholds facts; or
2. commits any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any Wisconsin statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of FoodShare benefits or QUEST cards.

An IPV may be determined by the following means:

1. Federal, state, or local court order,
2. Administrative Disqualification Hearing (ADH) decision,
3. Pre-charge or pretrial diversion agreement initiated by a local district attorney and signed by the FoodShare recipient in accordance with federal requirements, or
4. Waiver of the right to an ADH signed by the FoodShare recipient in accordance with federal requirements.

Period of Ineligibility

Anyone determined to have committed an IPV is ineligible for:

- 1) One year for the first intentional program violation.
- 2) Two years for:
 - a) the second intentional program violation or,
 - b) the first IPV for which an individual is convicted in a federal, state or local court to have used or received benefits in a transaction involving the sale of drugs.
- 3) Permanently for:
 - a) a third intentional program violation, **or**
 - b) a first IPV resulting from the conviction of the individual by a federal, state or local court for having used or received benefits in a transaction involving the sale of firearms, ammunition, or explosives, **or**
 - c) a first IPV resulting from a conviction of an individual in a federal, state or local court involving trafficking benefits for an aggregate amount of \$500 or more.
 - d) a second IPV for which an individual is convicted in a federal, state or local court to have used or received benefits in a transaction involving the sale of drugs

Only the person determined to have committed an IPV is ineligible. Other members of the FoodShare group may continue to be eligible.

If a non-participating person with an IPV disqualification does reapply for FS, we apply any remaining periods of ineligibility.

IPV Disqualification for Receipt of Multiple FS Benefits

A person who makes a fraudulent statement about his or her identity or place of residence in order to receive multiple FS benefits simultaneously shall be ineligible for a period of 10 years.

Federal regulations citation: 7 CFR 273.16

Summary of Medical Assistance fraud offenses and penalties from s. 49.49 of state statutes

Prohibited conduct

No person, in connection with a medical assistance program, may:

1. Knowingly and willfully make or cause to be made any false statement or representation of a material fact in any application for any benefit or payment.
2. Knowingly and willfully make or cause to be made any false statement or representation of a material fact for use in determining rights to such benefit or payment.
3. Having knowledge of the occurrence of any event affecting the initial or continued right to any such benefit or payment or the initial or continued right to any such benefit or payment of any other individual in whose behalf he or she has applied for or is receiving such benefit or payment, conceal or fail to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized.
4. Having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully convert such benefit or payment or any part thereof to a use other than for the use and benefit of such other person.

Penalties

Violators may be punished as follows:

1. In the case of such a statement, representation, concealment, failure, or conversion by any person in connection with the furnishing by that person of items or services for which medical assistance is or may be made, a person violating this subsection is guilty of a Class H felony, except that, notwithstanding the maximum fine specified in s. 939.50 (3) (h), the person may be fined not more than \$25,000.
2. In the case of such a statement, representation, concealment, failure, or conversion by any other person, a person convicted of violating this subsection may be fined not more than \$10,000 or imprisoned for not more than one year in the county jail or both.

Damages

If any person is convicted under s. 49.49, the state shall have a cause of action for relief against such person in an amount 3 times the amount of actual damages sustained as a result of any excess payments made in connection with the offense for which the conviction was obtained.

Summary of FoodShare Program fraud offenses and penalties from s. 49.795 of state statutes

Prohibited Conduct

No person may misstate or conceal facts in a FoodShare Program application or report of income, assets or household circumstances with intent to secure or continue to receive FoodShare Program benefits.

No person may knowingly fail to report changes in income, assets or other facts as required under 7 USC 2015 (c) (1) or regulations issued under that provision.

No person may knowingly issue benefits to a person who is not an eligible person or knowingly issue benefits to an eligible person in excess of the amount for which the person's household is eligible.

No eligible person may knowingly transfer benefits except to purchase food from a supplier or knowingly obtain or use benefits for which the person's household is not eligible.

No supplier may knowingly obtain benefits except as payment for food or knowingly obtain benefits from a person who is not an eligible person.

No unauthorized person may knowingly obtain, possess, transfer or use FoodShare benefits.

Penalties

For a first offense:

1. If the value of the benefits does not exceed \$100, a person may be fined not more than \$1,000 or imprisoned not more than one year in the county jail or both.
2. If the value of the benefits exceeds \$100, but is less than \$5,000, a person is guilty of a Class I felony.

For a 2nd or subsequent offense:

1. If the value of the benefits does not exceed \$100, a person may be fined not more than \$1,000 or imprisoned not more than one year in the county jail or both.
2. If the value of the benefits exceeds \$100, but is less than \$5,000, a person is guilty of a Class H felony.
3. If the value of the benefits is \$5,000 or more, a person is guilty of a Class G felony.

In addition to the penalties above, the court shall suspend a person from participation in the FoodShare Program as follows:

1. For a first offense, one year. The court may extend the suspension by not more than 18 months.
2. For a 2nd offense, 2 years. The court may extend the suspension by not more than 18 months.
3. For a 3rd offense under this section, permanently.

If a court finds that a person traded a controlled substance, as defined in s. 961.01 (4), for benefits, the court shall suspend the person from participation in the FoodShare Program as follows:

1. Upon the first such finding, for 2 years.
2. Upon the 2nd such finding, permanently.

If a court finds that a person traded firearms, ammunition or explosives for benefits, the court shall suspend the person permanently from participation in the FoodShare Program.

The court shall suspend from the FoodShare Program for a period of 10 years a person who fraudulently misstates or misrepresents his or her identity or place of residence for the purpose of receiving multiple benefits simultaneously under the program.